

AN ORDINANCE 2011-09-01-0717

AUTHORIZING THE DESIGNATION OF THE SUN-E CPS2, L.L.C. INDUSTRIAL DISTRICT; A FIFTEEN (15) YEAR NON-ANNEXATION AGREEMENT WITH SUN-E CPS2, L.L.C AND THE SAN ANTONIO WATER SYSTEM (SAWS); AND A TAX ABATEMENT AGREEMENT WITH SUN-E CPS1, L.L.C. TO EXEMPT 100% OF AD VALOREM TAXES FOR A PERIOD OF SIX (6) YEARS ON REAL AND PERSONAL PROPERTY IMPROVEMENTS OF APPROXIMATELY \$42.5 MILLION.

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WHEREAS, Texas Local Government Code §42.044 provides for a governing body of a municipality to designate any part of its extraterritorial jurisdiction as an industrial district and allows the governing body to treat the designated area in a manner considered by the governing body to be in the best interests of the municipality; and

WHEREAS, the statute also provides for the governing body to make written contracts with the owners of land in the industrial district to guarantee the continuation of the extraterritorial status of the district and its immunity from annexation by the municipality for a period not to exceed fifteen (15) years; and

WHEREAS, SunE CPS2, L.L.C. is the lessee of a portion of real property owned by San Antonio Water System (SAWS), an agency of the City of San Antonio (the "City"), which is located at 3495 Valley Road, San Antonio, Texas 78221 (the "Valley Road Property"); and

WHEREAS, with the consent of SAWS, as property owner, SunE CPS2, L.L.C. has petitioned the City to designate the Valley Road Property as an industrial district under Tx.Loc.Govt.Cde. §42.044 and has requested a fifteen (15) year non-annexation agreement; and

WHEREAS, SunE CPS1, L.L.C. is the lessee of real property located at 3970 Rabel Road, San Antonio, Texas 78244 (the "Rabel Road Property"); and

WHEREAS, the Rabel Road Property is located in a state-designated Enterprise Zone which makes it a reinvestment zone for purposes of Chapter 312 of the Texas Tax Code; and

WHEREAS, SunE CPS1, L.L.C. intends to undertake an economic development project consisting of the design, construction and operation of a 10 MegaWatt AC solar array (the "Project") at the Rabel Road Property; and

WHEREAS, the Project will require an investment of approximately \$42,500,000.00 in both real and personal property improvements; and

WHEREAS, the City Council finds: 1) that it is in the best interest of the municipality to designate the Valley Road Property as an industrial district and to enter into an Industrial District Non-Annexation Agreement with SunE CPS2, L.L.C; 2) that the proposed Project furthers the objective of the City of San Antonio in promoting the development of local business interests, investment and

job creation; and 3) that authorizing and approving a Tax Abatement Agreement is a reasonable incentive to induce SunE CPS1, L.L.C to undertake and complete the Project at the Rabel Road Property in San Antonio; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council designates the Valley Road Property as an Industrial District in accordance with Texas Local Government Code §42.044 and approves the execution of an Industrial District Non-Annexation Agreement between the City, SAWS and SunE CPS2, L.L.C. The City Manager or her designee is authorized to execute the Industrial District Non-Annexation Agreement in accordance with this Ordinance. A copy of the Industrial District Non-Annexation Agreement, in substantially final form, is attached hereto and incorporated herein as Exhibit A.

SECTION 2. The City Council approves and authorizes the execution of a Tax Abatement Agreement with SunE CPS1, L.L.C. granting a one-hundred percent (100%), six (6) year abatement of ad valorem taxes on real and personal property improvements made by SunE CPS1, L.L.C in an estimated amount of \$42,500,000.00 on the Rabel Road Property. A copy of the Tax Abatement Agreement, in substantially final form, is attached hereto and incorporated herein as Exhibit B.

SECTION 3. Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 216000000000 and General Ledger 4401815.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 5. This Ordinance shall be effective immediately upon passage by eight affirmative votes; otherwise, it shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 1st day of SEPTEMBER 2011.

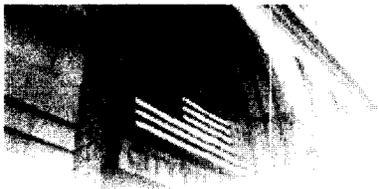

M A Y O R
Julián Castro

ATTEST:


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


Michael D. Bernard, City Attorney



Request for
COUNCIL
ACTION

City of San Antonio



Agenda Voting Results - 22

Name:	22						
Date:	09/01/2011						
Time:	09:40:15 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a 6-year, 100% Tax Abatement Agreement with Sun Edison and an Ordinance creating the Sun Edison Industrial District and approving a 15-year Non-Annexation Agreement with Sun Edison. [A.J. Rodriguez, Deputy City Manager; Rene Dominguez, Director, International and Economic Development]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x			x	
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				x
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

EXHIBIT “A”

STATE OF TEXAS

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**INDUSTRIAL DISTRICT
NON-ANNEXATION AGREEMENT**

COUNTY OF BEXAR

This Industrial District Non-Annexation Agreement (hereinafter referred to as this "Agreement") is made and entered into by and between the City of San Antonio (hereinafter referred to as "CITY"), a Texas Municipal Corporation, acting by and through its City Manager, or her designee pursuant to Ordinance No. _____ dated _____, 2011; San Antonio Water System ("SAWS"), an agency of the CITY; and SunE CPS2, LLC (hereinafter referred to as "Project Company"), a limited liability company formed under the laws of the State of Delaware and registered to do business in Texas, acting by and through its Authorized Representative, hereto, duly authorized.

WHEREAS, SAWS is the current beneficial owner of approximately 133.5 acres situated in Bexar County, Texas, which is more particularly described in Attachment I hereto, (hereinafter referred to as the "Property") and which is located within the extraterritorial jurisdiction of the City of San Antonio, as that term is defined in Section 42.021, entitled "Extent of Extraterritorial Jurisdiction," Local Government Code, V.A.T.C.S., and was redesignated the Project Company Industrial District (hereinafter referred to as "Industrial District") by City Ordinance No. 2011-08-____-____ passed on August __, 2011 pursuant to Section 5 of the Municipal Annexation Act, as amended by House Bill No. 2216, 1985; and

WHEREAS, Project Company has entered into an Option to Lease Real Property Agreement dated March 7, 2011 ("Option Agreement"), which is more particularly described in Attachment II hereto, with SAWS to have the right for a period of time, to elect to enter into a Lease (the "Lease Agreement") covering all or a portion of the Property, to occupy the Property (together with other property) and conduct business activities which include activities consistent with the design, construction, and operation of a photovoltaic/ground mounted solar array and consistent with the terms and provisions of said Lease Agreement; and

WHEREAS, it is to the mutual benefit of CITY, SAWS and Project Company that the Property not be annexed by CITY prior to the term specified in Section 1 herein; and

WHEREAS, it is the desire of the present City Council of the City of San Antonio to enter into this Agreement with SAWS and Project Company;

NOW THEREFORE, The parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described:

SECTION 1. CITY, subject to the conditions set out in this Agreement, guarantees the continuation of the extraterritorial status of the Property and its immunity from annexation by CITY for a conditioned period of time beginning with the execution of this Agreement and ending on the earlier of (i) the expiration of the term or earlier termination of the Lease

Agreement, or (ii) fifteen (15) years from the date of execution, unless terminated earlier pursuant to the provisions contained herein (the "Term of this Agreement").

SECTION 2. SAWS and Project Company agree to execute a "Petition for Annexation" upon execution of this Agreement, a copy of which is attached hereto and incorporated herein for all purposes as Attachment III.

SECTION 3. SAWS and Project Company agree that persons designated by CITY shall be provided reasonable access to and permitted to inspect all structures situated within the Industrial District to assure compliance with all applicable City Codes and ordinances, including regulations pertaining to the regulations enforced by the Texas Commission on Environmental Quality ("TCEQ").

SECTION 4. No waiver by CITY of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option.

SECTION 5. Project Company agrees that for so long as the Lease Agreement is in effect, the Property shall be for the exclusive use of industry consistent with the City of San Antonio Unified Development Code.

SECTION 6. No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege or remedy available to CITY hereunder or by law or in equity, such rights powers, privileges or remedies to be always specifically preserved hereby.

SECTION 7. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws including, but not limited to, the City Charter, City Code or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein.

SECTION 8. RESERVED.

SECTION 9. Project Company agrees that all land use and construction in the Industrial District shall comply in all material respects with all applicable City Codes and regulations including the TCEQ environmental regulations. Prior to commencement of construction of any solar farm in the Industrial District, Project Company agrees to deliver plans in accordance with the City of San Antonio Unified Development Code Section 35-398(b) to CITY's Director of Development Services

SECTION 10. Project Company agrees to inform all project(s) managers, architects, engineers, prime contractors and subcontractors, in writing, that all site development plans and applicable permits will be obtained and all inspections applied for and approved as if the construction project was within the city limits of San Antonio, Texas.

SECTION 11. Project Company will strongly encourage prime contractors and subcontractors to utilize qualified local labor and business including small, minority, disabled and women-owned business enterprises where feasible. The City's Small Business Office of the International and Economic Development Department shall provide assistance to prime contractors and subcontractors in identifying qualified small, minority, disabled, and women-owned businesses.

SECTION 12. Project Company agrees to provide CITY sixty (60) days written notice to the Director of the International and Economic Development Department of any pending assignment of the Lease Agreement or transfer of title to the Property that has been declared an industrial district pursuant to this Agreement.

SECTION 13. Project Company agrees to include the following special provision in any assignment of the Lease or permitted sublease of the Property hereunder executed by Project Company and any permitted successor and/or assigns:

"This conveyance (or where applicable, lease) is made and accepted and subject to the following special provisions:

_____ hereby assumes and promises to keep and perform the terms and conditions of that certain Industrial District Non-Annexation Agreement ("Agreement") created amendatory thereof executed by the City of San Antonio, SAWS and Project Company which Industrial District Non-Annexation Agreement is of record in the Real Property Records of Bexar County, Texas as to the parcels conveyed (or if applicable, leased) hereby. The CITY shall have, upon the expiration of the non-annexation time period, the right to exercise any or all of the following:

- A. The right to refuse or to discontinue any municipal services to the parcel or parcels; and/or
- B. The right to de-designate as a part of the Industrial District the parcels or parcels subject to these special provisions: "Any delay on the part of the City of San Antonio to exercise such rights shall not constitute a waiver of such rights. The remedies set out in the Industrial District Non-Annexation Agreement executed between the City of San Antonio and Project Company are applicable to these special provisions. The above restriction shall be a covenant running with the land for the period of the above referenced Industrial District Non-Annexation Agreement."

SECTION 14. Project Company agrees to follow all federal, state and local statutes, codes, ordinances and regulations pertaining to effluent discharges into a publicly-owned sanitary sewage collection system. Project Company specifically agrees to comply with San Antonio

Ordinance No. 57214 (Industrial Waste Ordinance) and San Antonio Ordinance No. 61422 (Schedule of Fees) or as said ordinances may be amended.

SECTION 15. Project Company further agrees to follow the requirements of the Federal Water Pollution Control Act of 1972 (PL92-500), as amended by the Clean Water Act of 1977 (PL95-217) or future amendments, which are applicable to users of a sewage collection system.

SECTION 16. During the Term, CITY may declare a default if Project Company fails to perform in any material respect any term, condition or covenant contained in this Agreement. Should CITY determine that Project Company is in default, CITY will notify SAWS and Project Company in writing at the address listed below in Section 19. If said default is not cured within sixty (60) calendar days from the date in such notice (hereinafter the "Cure Period"), then City Council shall have the right to:

- a. Terminate this Agreement among SAWS, Project Company and CITY; and/or
- b. De-designate as part of the Industrial District the parcel or parcels of the Property to which Project Company has failed to perform (the "De-Designated Parcels"). Such loss of designation shall render the De-Designated Parcels eligible for annexation.

CITY may extend the Cure Period if Project Company commences to cure such default within the Cure Period and Project Company is acting in "reasonable good faith" to diligently pursue such cure.

SECTION 17. In the event of loss of designation pursuant to Section 16(b) of this Agreement, and provided Project Company has cured the failure to perform which caused de-designation and the parcel or parcels affected have not been annexed by CITY, then SAWS and Project Company may apply for re-designation of said parcel or parcels of the Industrial District subject to the same expiration date and Term regarding the "Petition for Annexation" as applicable in this Agreement.

SECTION 18. For purposes of this Agreement, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:
Director
International & Economic Development
Department
P.O. Box 839966
San Antonio, Texas 78283-3966

Project Company:
General Counsel
SunE CPS2, LLC
12500 Baltimore Avenue
Beltsville, MD 20705

SAWS:
Vice President Operations Services
SAWS
P.O. Box 2448
San Antonio, Texas 78298

SECTION 19. SAWS and Project Company agree that the City Clerk of the City of San Antonio shall place this Agreement along with ordinances and attachments thereto in the Real Property Records of Bexar County, Texas. Project Company agrees to pay the City Clerk of the City of San Antonio filing fees for recording these instruments in the County Deed Records. A copy of filed documents will be furnished to the International and Economic Development Department and SAWS.

SECTION 20. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns, except as otherwise expressly provided for herein.

SECTION 21. It is understood by the parties to this Agreement that if CITY terminates this Agreement pursuant to the above provisions, said termination shall not require approval by the City Council but shall instead require only a written notification by CITY to SAWS and Project Company giving notice of such termination and the effective date thereof.

SECTION 22. THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

SECTION 23. All attachments to this Agreement are incorporated herein for all purposes.

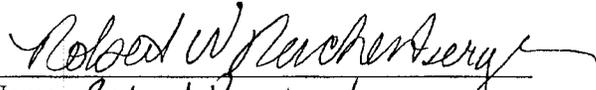
Signatures appear on next page.

EXECUTED THIS _____ day of _____, 2011.

CITY OF SAN ANTONIO

SUNE CPS2, LLC

Sheryl L. Sculley
City Manager



Name: Robert Kerchenberg
Title: Authorized Representative

ATTEST:

SAN ANTONIO WATER SYSTEM
(SAWS)

Leticia Vacek
City Clerk

Name: Michael S. Brinkmann
Title: Vice President Operations Services

APPROVED AS TO FORM:

Michael D. Bernard
City Attorney

STATE OF TEXAS

COUNTY OF BEXAR

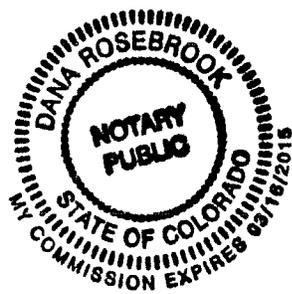
BEFORE ME, the undersigned authority, on this _____ day of _____, 2011 personally appeared _____, _____ of SAWS, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed as the act and deed of said corporation and in the capacity therein stated.

Notary Public, State of Texas

STATE OF Colorado

COUNTY OF Denver

BEFORE ME, the undersigned authority, on this 24 day of August, 2011 personally appeared Robert Reichenberger, Authorized Representative behalf of SunE CPS2, LLC, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed as the act and deed of said corporation and in the capacity therein stated.



Dana Rosebrook
Notary Public, State of Colorado

ATTACHMENT I
PROPERTY DESCRIPTION

ATTACHMENT II

OPTION TO LEASE REAL PROPERTY AGREEMENT

ATTACHMENT III

**REQUEST TO MAYOR AND CITY
BY THE OWNER OR OWNERS OF PROPERTY
FOR ANNEXATION OF SAID PROPERTY**

STATE OF TEXAS

COUNTY OF BEXAR

The undersigned beneficial owner and lessee of the hereinafter described tract of land hereby request that, at the end of the fifteen (15) year period, that is, the tax year beginning January 1, 2027, the City Council may take action to extend the present City limits so as to include as a part of the City of San Antonio, Texas the following described territory, to wit:

(See Attachment I affixed hereto).

We certify that this petition is signed and sworn to by each and every person or officer authorized to act for any corporation having an interest in said land, as shown by instruments of record in the Deed Records of Bexar County, to wit, those recorded in Vol. _____, Page _____.

We further fully understand that the existence of this petition in no way binds the City of San Antonio, Texas to annex the property affected by this petition.

SAN ANTONIO WATER SYSTEM (SAWS)

Name:
Title:

SUNE CPS2, LLC


Name: ROBERT REICHENBERGEN
Title: VP of Utility Section

EXHIBIT “B”

STATE OF TEXAS

COUNTY OF BEXAR

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**CITY OF SAN ANTONIO
TAX ABATEMENT AGREEMENT
FOR REAL AND PERSONAL PROPERTY**

1. **PARTIES**

THIS AGREEMENT (the "Agreement") is entered into on this ___ day of _____, 2011, by and between SunE CPS1, LLC (hereinafter referred to as "PROJECT COMPANY"), future holder of a leasehold interest in the real property described herein and as future owner of personal property located on said real property, and the CITY of SAN ANTONIO, a municipal corporation, (hereinafter referred to as the "CITY"), acting by and through its City Manager under the authority of its City Council.

2. **AUTHORIZATION AND FINDINGS**

A. This Agreement is entered into pursuant to the following authorities:

1. The Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312, as amended;
2. CITY COUNCIL RESOLUTION No. 89-07-12, dated the 15th day of February 1989, and most recently revised by Ordinance No. 2010-12-16-1105 on December 16, 2010, together which established the City of San Antonio Guidelines and Criteria for Tax Phase-In and Reinvestment Zones and Tax Abatement Guidelines, (hereinafter referred to as the "Guidelines and Criteria");
3. CITY COUNCIL ORDINANCE NO. 2011-__-__-____, dated _____, 2011, which designated the SunE CPS 1, LLC Reinvestment Zone (the "Zone"); and
4. CITY COUNCIL ORDINANCE NO. 2011-__-__-____, dated _____, 2011, which specifically approved this Agreement and authorized execution hereof.

B. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement abide by the Guidelines and Criteria and approving this Agreement will not have any substantial long-term adverse effect on the provision of City services or the City's tax base and the planned use of the Property (defined below) inside the qualifying Reinvestment Zone by PROJECT COMPANY for the uses contemplated herein will not constitute a hazard to public safety, health or morals.

3. **PROPERTY**

A. PROJECT COMPANY shall possess a leasehold interest in real property located at 3970 Rabel Road, San Antonio, Texas 78224 (the "Property"), legally described in Exhibit "A", attached hereto and incorporated herein. The Property is located within a qualifying Reinvestment Zone for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312.

B. PROJECT COMPANY shall design, construct, and operate one (1) approximately 10 megawatt AC solar array located on property owned by the San Antonio Water System located at the Dos Rios Water Recycling Center. The energy produced by the solar array will be provided to CPS Energy for a period of at least twenty-five (25) years, with an option to extend the contract for up to two (2) additional five (5) year terms (the "Business Activities"). PROJECT COMPANY shall conduct and perform its Business Activities or the normal Business Activities of a Related Organization, as defined in Article 5, Paragraph I, on the Property for the term of this Agreement.

C. PROJECT COMPANY is investing approximately FORTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$42,500,000.00) in new personal property ("Personal Property Improvements") to establish its Business Activities to include the construction of a solar energy system consisting of crystalline photovoltaic (PV) solar modules mounted to a series of tracking units. The tracker's support pipe framework will be aligned in a north-south row orientation. The solar modules will rotate in an east-west motion about a horizontal axis throughout the day. Multiple strings of tracker mounted solar modules will be electrically connected to power inverters. The inverters will connect to transformers where the energy will be converted to the prescribed interconnection voltage before interconnecting to the utility distribution system. The Personal Property Improvements shall not be placed on the Property sooner than the effective date of this Agreement.

D. PROJECT COMPANY shall establish a separate tax account for the Personal Property Improvements and Real Property Improvements with the Bexar Appraisal District and provide these tax account numbers to the CITY.

4. **PROJECT COMPANY'S REPRESENTATIONS**

A. PROJECT COMPANY represents that they have no knowledge that any interest in the Property is presently owned, held or leased by a member of the San Antonio City Council, Zoning Commission, Planning Commission, the City's International and Economic Development Department, or any other City officer or employee. PROJECT COMPANY further represents that they shall not knowingly sell, lease or otherwise convey such an interest to a member of the San Antonio City Council, the Zoning Commission, the Planning Commission, the City's International and Economic Development Department or any other City officer or employee, as long as this Agreement remains in effect.

B. PROJECT COMPANY represents that there is no litigation pending against PROJECT COMPANY for any violations under the Occupational Safety and Health Act ("OSHA").

5. **OBLIGATIONS OF PROJECT COMPANY**

A. In addition to all other obligations and/or duties imposed on PROJECT COMPANY by any other incentive agreements it has entered into with the State of Texas, Bexar County and/or the City of San Antonio, PROJECT COMPANY shall:

- 1) own, hold an interest in or otherwise control the Property and Personal Property Improvements that are the subject of this Agreement; and
- 2) invest, or cause to be invested, approximately FORTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$42,500,000.00) in Personal Property Improvements for the Property by January 1, 2013; and
- (3) shall use the Property for its Business Activities; and
- (4) shall enter into a binding contractual agreement with the University of Texas at San Antonio, that provides for PROJECT COMPANY contributing a total of THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) over a period of time not to exceed three (3) years with at least FIFTY PERCENT (50%) of the contribution being in cash towards a research and development collaboration with the University of Texas at San Antonio and provide the CITY a copy of this executed Agreement prior to December 31, 2011; and
- (5) shall comply with all other applicable terms of this Agreement.

B. RESERVED.

C. RESERVED.

D. RESERVED.

E. PROJECT COMPANY covenants and agrees that it shall comply with all applicable federal and state laws governing the employment relationship between employers and employees.

F. PROJECT COMPANY also covenants and agrees that it shall conduct its Business Activities (as defined in Article 3, Paragraph (B) on the Property in accordance with all applicable federal, state and local laws.

G. Should PROJECT COMPANY construct, or cause to be constructed, any real property improvements to the Property it shall do so in accordance with all applicable federal, state and local laws including, but not limited to, Texas Commission on

Environmental Quality regulations, Bexar County and City of San Antonio laws, Building Codes and ordinances, Historic Preservation and Urban Design ordinances, flood, subdivision, building, electrical, plumbing, fire and life safety codes and regulations, current and as amended.

H. Except as provided herein, PROJECT COMPANY covenants and agrees that it shall use the Property only to conduct its Business Activities. Without additional consent or approval by the City Council, a parent, subsidiary or affiliate organization of PROJECT COMPANY or new entity created as a result of a merger, acquisition, or other corporate restructure or reorganization of PROJECT COMPANY, or any component thereof (hereinafter "Related Organization") may occupy and use the Property for such Related Organization's normal business activities, so long as such business activities are those of an energy provider or comparable to the Business Activities of PROJECT COMPANY on the Property. To be eligible for the tax abatements as provided in this Agreement, such Related Organization must agree in writing to fully comply with all applicable terms of this Agreement. Except as authorized above, PROJECT COMPANY covenants and agrees not to change the principal use of the Property without prior approval by the City Council, as evidenced in a duly approved ordinance.

I. PROJECT COMPANY covenants and agrees that it shall maintain the Property and any constructed improvements in good repair and condition during the Term (as defined in Article 6, Paragraph A) of this Agreement, normal wear and tear and damage by fire or other casualty not caused as a result of the negligence, intentional act or misconduct of PROJECT COMPANY excepted. Compliance with the maintenance obligations imposed herein shall be presumed if PROJECT COMPANY follows its normal and customary maintenance procedures and schedules.

J. Upon ten (10) business days prior notice to PROJECT COMPANY by CITY, PROJECT COMPANY covenants and agrees that it shall allow designated representatives of the CITY supervised access to the Property during normal business hours for inspection to determine if the terms and conditions of this Agreement are being met. The CITY, and any of its representatives, requesting access for this purpose may be required to sign additional site safety requirements that meet PROJECT COMPANY'S operation and maintenance obligations and requirements prior to being allowed to come on PROJECT COMPANY'S property. The process of signing any additional safety documentation or going through safety requirements will not be counted toward the ten (10) day business days prior notice timeframe. This inspection is independent of CITY'S police powers to inspect for purposes of assuring compliance with applicable City Codes and Ordinances. The CITY's access to PROJECT COMPANY'S books and records will be limited to information needed to verify that PROJECT COMPANY is and has been conducting Business Activities, and to verify the number of full-time employees associated with Business Activities at the Property. Any information that is not required by law to be made public shall be kept confidential by CITY. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to obtain an independent firm to verify the information at CITY's sole expense. In the event the independent firm discovers a material error in the validity of PROJECT

COMPANY'S data, this certified statement by an independent firm shall be provided at the sole cost of PROJECT COMPANY. CITY representatives may be accompanied by PROJECT COMPANY representatives and such inspections shall be conducted in such a manner as to (a) not unreasonably interfere with the operation of the Property or the Facility; and (b) comply with PROJECT COMPANY's reasonable security requirements.

K. During the term of this Agreement, PROJECT COMPANY covenants and agrees to furnish each year, as applicable, the Chief Appraiser of Bexar Appraisal District with information outlined in Chapter 22, V.A.T.S. Tax Code, as amended, as may be necessary for the tax phase-in and for appraisal purposes.

L. RESERVED.

M. RESERVED.

N. PROJECT COMPANY covenants and agrees to notify CITY in writing at least thirty (30) days prior to any sale, transfer or sub-lease of the Property during the Term. CITY shall not unreasonably withhold approval of any requests for Assignment of this Agreement by PROJECT COMPANY under Article 11 and any new purchaser or transferee requesting Assignment shall be bound by same. Failure to provide the required notification under this Article 5, Paragraph O may render PROJECT COMPANY subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

O. PROJECT COMPANY covenants and agrees to notify CITY in writing at least thirty (30) days prior to Relocating or ceasing its Business Activities (as described in Article 7, Paragraphs B and C). Failure to provide the required notification under this Article 5, Paragraph P may render PROJECT COMPANY subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph E).

P. RESERVED.

Q. If, during this Agreement, PROJECT COMPANY allows its ad valorem taxes due on the land, real and personal property or inventory and supplies to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, then the cure, termination and recapture provisions of Article 7 may apply against PROJECT COMPANY.

6. TAX ABATEMENT

A. The tax abatement period (the "Term") for the Personal Property and Real Property Improvements shall be six (6) years beginning on January 1, 2013. The base year for calculating the value of the real property and personal property existing and located upon the Property prior to the effective date of this Agreement shall be January 1, 2011. The "Base Year Value" of the real property and personal property not covered by

this Agreement shall be its assessed value (determined by the Bexar Appraisal District), as of the Base Year. This Agreement only provides for the abatement of taxes on real property improvements and tangible personal property brought onto the site after the execution of this Agreement.

B. At the commencement of the Term, PROJECT COMPANY shall own, have an interest in or otherwise control the Property and shall be conducting its Business Activities on a daily basis.

C. Provided that PROJECT COMPANY has invested in the Real Property Improvements and Personal Property Improvements as described in Article 3, Paragraph A of this Agreement by December 31, 2012, PROJECT COMPANY uses the Property for its Business Activities, PROJECT COMPANY has entered into a binding Agreement with UTSA required under Article 5, Paragraph A(4) of this Agreement; and PROJECT COMPANY is otherwise in compliance in all material respects with the conditions of this Agreement, then ONE HUNDRED PERCENT (100%) of the ad valorem taxes for the Personal Property Improvements above the Base Year Value, shall be abated for the six (6) year Term of this Agreement. There shall be no abatement of taxes for inventory or supplies.

D. PROJECT COMPANY acknowledges and agrees that the Base Year Value of the Property and the tax levy based on said Base Year Value of the Property in the Zone shall not decrease, but taxes may increase and that the amount of property taxes paid by PROJECT COMPANY to the CITY attributable to the Property during the Term shall not be less than the amount of taxes attributable to the Property paid to the CITY for the base year tax year, if any, except in the event of casualty or condemnation of the Property in the Zone.

E. PROJECT COMPANY shall have the right to protest appraisals of the Property, real or personal, or any portion thereof, over and above the Base Year Value as applicable.

7. DEFAULT/TERMINATION/RECAPTURE

A. For purposes of this section, "Relocation" or "Relocate" shall mean PROJECT COMPANY or a Related Organization which has taken the place of PROJECT COMPANY, transferring Business Activities to a location outside the Zone.

B. Should PROJECT COMPANY occupy and use the Property for its Business Activities and subsequently Relocates (as defined in this Article 7, Paragraph A) during the Term, unless such Relocation is caused by a Force Majeure, as defined in Article 8, then CITY shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Relocation occurred. Unless PROJECT COMPANY presents credible evidence to clearly indicate a date of Relocation, CITY's determination shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies PROJECT COMPANY in writing of termination.

C. If PROJECT COMPANY occupies and uses the Property for its Business Activities and subsequently ceases conducting Business Activities (or a substantial portion thereof) at the site for a continuous period of three (3) months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure as defined in Article 8, then the CITY shall have the right to terminate this Agreement. Said terminations shall be effective for the calendar year during which the Property was no longer used for the required purposes stated herein. Unless PROJECT COMPANY presents credible evidence to clearly indicate a date of cessation, CITY's determination of a date of cessation shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies PROJECT COMPANY in writing of termination.

D. RESERVED.

E. During the Term, CITY may declare a default if PROJECT COMPANY fails to materially comply with any of the terms of this Agreement. Should CITY determine PROJECT COMPANY is in default under any of the terms of this Agreement, CITY will notify PROJECT COMPANY in writing at the address below in Article 9. If said default is not cured within sixty (60) calendar days from the date of such notice (hereinafter the "Cure Period"), then CITY shall have the right to terminate this Agreement. CITY may, in its sole discretion, extend the Cure Period if PROJECT COMPANY commences the cure within the Cure Period and PROJECT COMPANY is diligently pursuing such cure. If the Agreement is terminated as a result of default, all taxes abated shall be due for the tax year during which the termination occurred and shall accrue without further abatements for all tax years thereafter; in addition, CITY shall have the right to recapture from PROJECT COMPANY all previously abated property taxes under this Agreement and said taxes shall be paid by PROJECT COMPANY within sixty (60) calendar days of receiving CITY'S written notification of recapture.

F. Other Remedies Available. CITY shall have the right to seek any remedy at law to which it may be entitled, in addition to termination and/or recapture, if PROJECT COMPANY defaults under the terms of this Agreement. However, such termination and/or recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which PROJECT COMPANY may be entitled. The termination and/or recapture of taxes provided in this Article 7 are not applicable to situations involving minor changes to the description of the Property, or changes in ownership or in management thereof, so long as PROJECT COMPANY, its parent, subsidiary, affiliate or

its CITY-approved successor or assignee continues conducting Business Activities or other authorized activities thereon as provided hereinabove.

G. Calculation of Taxes Subject to Recapture. If PROJECT COMPANY fails to comply in all material respects with any of the terms of this Agreement including, but not limited to, those pertaining to this Article 7, and fails to cure the noncompliance within the Cure Period or any extension thereof, then the City Council shall have the right to recapture from PROJECT COMPANY a percentage of the abated personal property taxes based on the following table:

TERM YEAR	TOTAL TAX PREVIOUSLY ABATED SHALL BE MULTIPLIED BY:
1-6	100%
7	100%
8	75%
9	50%
10	25%

FORMULA: The recapture formula shall be:

$$\begin{array}{rcl}
 \text{Total Taxes Abated} & \times & \text{Applicable Percentage} & = & \text{Amount to be} \\
 & & \text{from above Schedule} & & \text{Recaptured}
 \end{array}$$

CITY shall recalculate the amount of recapture pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to PROJECT COMPANY.

8. AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)

For purposes of this section, "Force Majeure" is defined as an act of God, terrorism, war, social unrest, strike, or natural disaster. It also includes explosion or other casualty or accident which is not the result of negligence, intentional act or misconduct on the part of PROJECT COMPANY. In addition to relief expressly granted in this Agreement, CITY may grant relief from performance of this Agreement if PROJECT COMPANY is prevented from compliance and performance by an event of Force Majeure and may, at the CITY'S election, terminate the Agreement. The burden of proof for the need for such relief shall rest upon PROJECT COMPANY. To obtain release based upon this Article 8, PROJECT COMPANY must file a written request with the CITY'S Economic Development Department for processing to City Council for a decision, authorized by a duly approved Ordinance.

9. NOTICE

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a)

delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective upon its deposit into the custody of the United States Postal Service or such nationally recognized delivery service as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO PROJECT COMPANY:

- (Whether personally delivered or mailed):

SunE CPS1, LLC
Attn: Corporate Counsel
12500 Baltimore Avenue
Beltsville, MD 20705

- With a copy to:

Kaufman & Killen, Inc.
100 West Houston Street, Suite 1250
San Antonio, Texas 78205

TO CITY:

- If mailed:

International and Economic Development Department
Attn: Director
P.O. Box 839966
San Antonio, Texas 78283-3966

- If by personal or overnight delivery:

International and Economic Development Department
Attn: Director
City Hall, 4th Floor
Military Plaza
San Antonio, Texas 78205

10. **CONDITION**

This Agreement is conditioned entirely upon the approval of the San Antonio City Council, as evidenced by duly approved Ordinance Number _____, dated _____.

11. **ASSIGNMENT**

Except as otherwise expressly provided herein, this Agreement may be assigned or otherwise transferred only with City Council's prior approval (which approval shall not be unreasonably withheld), as reflected in a duly adopted ordinance unless the assignee is considered a financing partner/owner/lessee of the Property and PROJECT COMPANY maintains an ongoing interest in the Property, including, but not limited to providing operations and maintenance services. PROJECT COMPANY must submit a written request to CITY for approval of the proposed assignment or other transfer at least thirty (30) days prior to the effective date of the assignment or transfer of any part of the Property; however, no City Council consent is required for an assignment or transfer to a parent of PROJECT COMPANY, a subsidiary of PROJECT COMPANY, an affiliate entity of PROJECT COMPANY, or to any new entity created as a result of a merger, acquisition or other corporate restructure or reorganization of PROJECT COMPANY. However, PROJECT COMPANY shall give CITY prior written notice of all assignments or other transfers that do not require City Council consent, as required under Article 5, Paragraph P. All future assignees shall be bound by all terms and/or provisions and representations of this Agreement.

12. **GENERAL PROVISIONS**

A. None of the property improvements described in this Agreement are financed by tax increment bonds.

B. This Agreement is entered into subject to the rights of the holders of outstanding bonds of the CITY related to this project. No bonds for which the CITY is liable have been used to finance this project.

C. No amendment, modification, or alteration of the terms hereof shall be binding unless in writing dated subsequent to the date of this Agreement and duly authorized by the parties. PROJECT COMPANY acknowledges that City Council approval is required for any and all of these actions.

13. **SEVERABILITY**

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or work herein is held invalid, illegal or unenforceable, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable. This Agreement constitutes the entire

Agreement between the parties hereto relating to the subject matter contained herein and supersedes all prior, oral or written agreements, commitments or understandings with respect to the matters provided for herein.

14. ESTOPPEL CERTIFICATE

Any party hereto may request an estoppel certificate related to this project (hereafter referred to as "Certificate") from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate, which if requested, will be addressed to a subsequent purchaser or assignee of PROJECT COMPANY or other party designated by PROJECT COMPANY which shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default, if such is the case, the remaining Term of this Agreement, the levels of tax abatement in effect, and such other matters reasonably requested by the party(ies) to receive the Certificate.

15. OWNER STANDING

PROJECT COMPANY, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same, and PROJECT COMPANY shall be entitled to intervene in said litigation.

16. APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is performable in Bexar County, Texas, the location of the Zone.

17. TRIPLICATE ORIGINALS

This Agreement shall be executed in triplicate originals, with one original going to each party and one to the City Clerk.

Signatures appear on next page.

EXECUTED and AGREED to this the _____ day of _____, 2011.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

SunE CPS1, LLC
a limited- liability company

Sheryl L. Sculley
CITY MANAGER


Name: Robert Reichenberger
Title: Authorized Representative

ATTEST:

ATTEST:

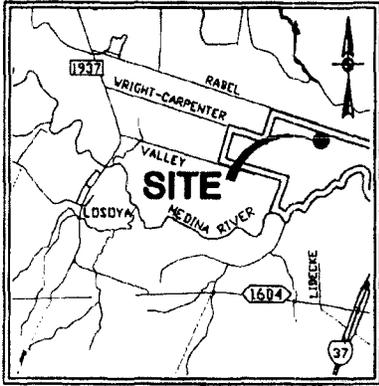
Leticia Vacek
CITY CLERK


Brock Chipman
U.S. Director, Land Acquisitions & Dev.

APPROVED AS TO FORM:

Michael D. Bernard
CITY ATTORNEY

EXHIBIT A: PROPERTY DESCRIPTION



LOCATION MAP
N.T.S.

THIS DOCUMENT WAS PREPARED UNDER 22 TAC 663.21, AND DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



(IN FEET)
1 inch = 500 ft.

SAWS NORTH EXHIBIT

RABEL ROAD

217.766 ACRES

LOT 1
BLOCK 1
513.76 ACRES

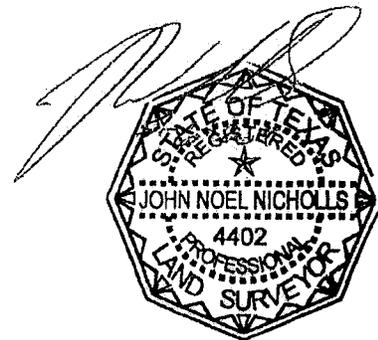
NEW CITY BLOCK 16629

DOS RIOS WASTE WATER TREATMENT
PLANT
DOS RIOS WWTP SUBDIVISION
(VOL. 9529, PGS. 53-67 D.P.R.)

MATCHLINE - SEE SHEET 2

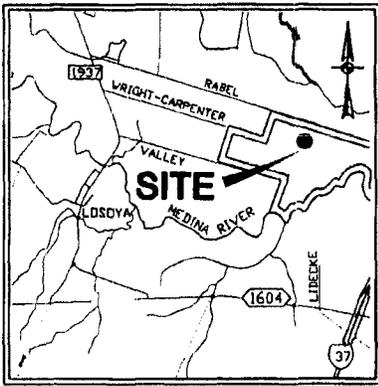
**PAPE-DAWSON
ENGINEERS**

555 EAST RAWSEY | SAN ANTONIO TEXAS 78216 | PHONE: 210.378.9000
FAX: 210.375.9010
TEXAS BOARD OF PROFESSIONAL ENGINEERS, P.E. REGISTRATION # 470
TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS, P.L.S. REGISTRATION # 100298-00



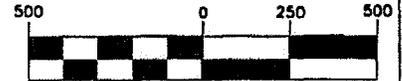
SHEET 1 OF 2

Date: May 06, 2011, 8:47am User ID: NNicholls
File: N:\CIVIL\7778-00 Sun Edison\TEX7778-00-NORTH.dwg



LOCATION MAP
M.T.S.

THIS DOCUMENT WAS PREPARED UNDER 22 TAC 663.21, AND DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



(IN FEET)
1 inch = 500 ft.

SAWS NORTH EXHIBIT

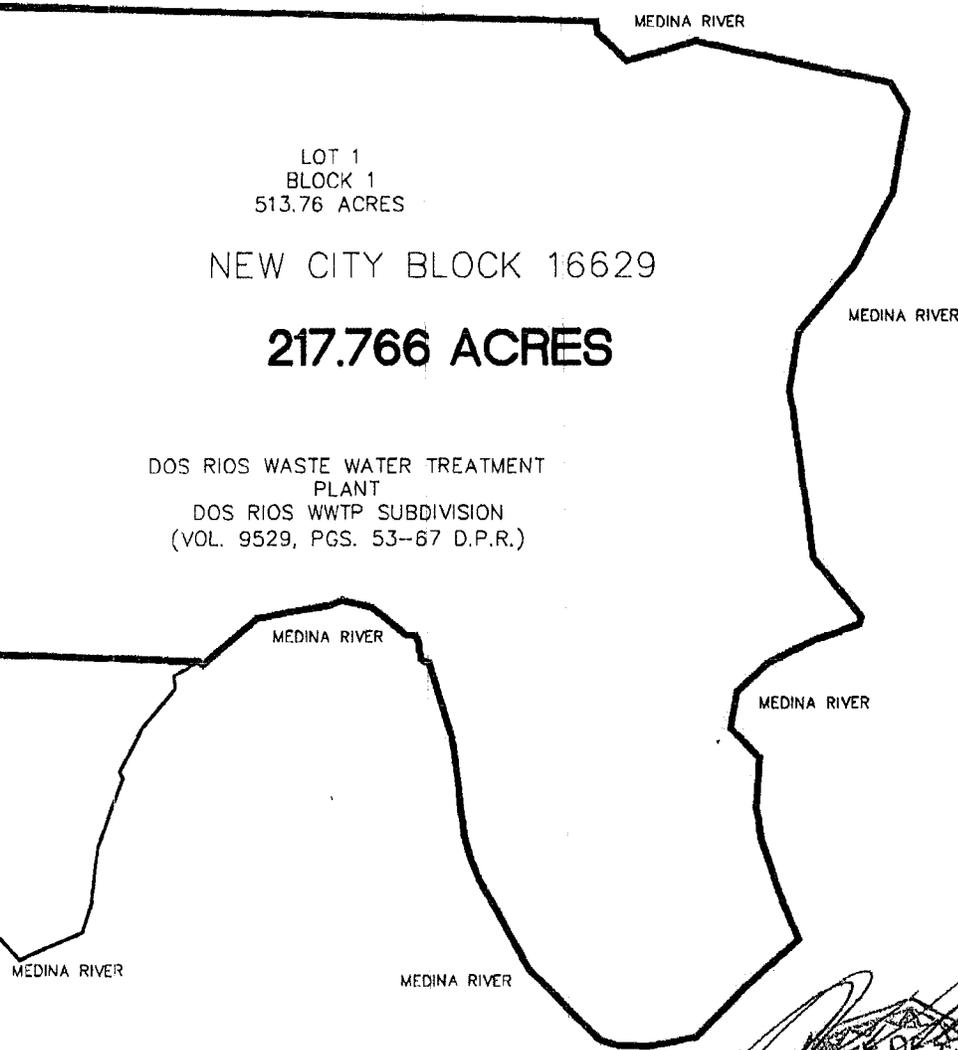
MATCHLINE - SEE SHEET 1

LOT 1
BLOCK 1
513.76 ACRES

NEW CITY BLOCK 16629

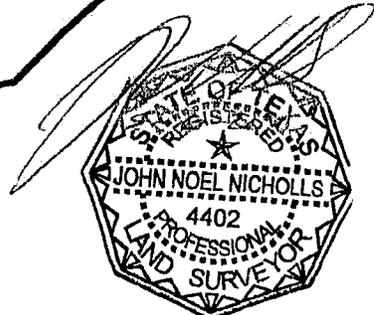
217.766 ACRES

DOS RIOS WASTE WATER TREATMENT
PLANT
DOS RIOS WWTP SUBDIVISION
(VOL. 9529, PGS. 53-67 D.P.R.)



PAPE-DAWSON ENGINEERS

555 EAST RAMSEY | SAN ANTONIO TEXAS 78216 | PHONE: 210.375.9000
FAX: 210.375.9010
TEXAS BOARD OF PROFESSIONAL ENGINEERS, FWB REGISTRATION # 470
TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS, FWB REGISTRATION # 100388-00



Date: May 06, 2011, 8:46am User ID: NNicholls
File: N:\CIVIL\7778-00 Sun Edison\ZEX7778-00-NORTH.dwg



LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

FIELD NOTES
FOR
SAWS NORTH EXHIBIT

A 217.767 acre tract of land out of Lot 1, Block 1, of the Dos Rios WWTP Subdivision as recorded in Volume 9529, Pages 53-67 of the Deed and Plat Records of Bexar County, Texas, in New City Block 16629 of the City of San Antonio, Bexar County, Texas. Said 217.767 acre tract being more fully described as follows, with bearings and description based on the said Dos Rios WWTP Subdivision Plat;

BEGINNING: At a northeast corner of said Lot 1, an angle at the east end of Rabel Road, a northwest corner of said Lot 1;

THENCE: S 72°33'02" E, along and with the north line of said Lot 1, 3384.21 feet to the northeast corner of said Lot 1 on the bank of the Medina River;

THENCE: Along and with the east line of said Lot 1 with the meanders of the north bank of the Medina River the following calls and distances:

- : S 08°13'45" W, a distance of 35.02 feet to a point;
- S 31°29'40" E, a distance of 113.59 feet to a point;
- S 89°16'16" E, a distance of 205.69 feet to a point;
- S 62°18'59" E, a distance of 569.88 feet to a point;
- S 15°39'18" E, a distance of 93.48 feet to a point;
- S 26°17'30" W, a distance of 235.43 feet to a point;
- S 44°16'48" W, a distance of 236.62 feet to a point;
- S 56°38'56" W, a distance of 245.18 feet to a point;
- S 24°27'33" W, a distance of 164.14 feet to a point;
- S 07°49'06" W, a distance of 487.75 feet to a point;
- S 23°09'27" E, a distance of 214.46 feet to a point;
- S 28°00'31" W, a distance of 18.88 feet to a point;
- S 85°21'42" W, a distance of 22.47 feet to a point;
- S 87°43'42" W, a distance of 114.86 feet to a point;
- S 80°13'55" W, a distance of 152.01 feet to a point;
- S 64°12'07" W, a distance of 114.73 feet to a point;
- S 25°31'36" W, a distance of 103.07 feet to a point;
- S 27°55'49" E, a distance of 116.22 feet to a point;
- S 18°59'12" W, a distance of 142.17 feet to a point;

Page 1 of 3.

Dos Rios Solar Project
Saws North Tract
Job 7778-10
217.766 Acres

S 07°13'41" W, a distance of 96.49 feet to a point;
S 02°56'26" E, a distance of 195.81 feet to a point;
S 09°09'35" E, a distance of 101.99 feet to a point;
S 65°46'56" W, a distance of 196.35 feet to a point;
S 60°57'58" W, a distance of 206.22 feet to a point;
N 83°52'22" W, a distance of 139.59 feet to a point;
N 73°02'46" W, a distance of 85.96 feet to a point;
N 57°56'48" W, a distance of 51.13 feet to a point;
N 29°53'46" W, a distance of 284.71 feet to a point;
N 13°51'37" W, a distance of 283.45 feet to a point;
N 07°29'22" W, a distance of 61.95 feet to a point;
N 00°33'42" W, a distance of 70.55 feet to a point;
N 09°17'20" E, a distance of 235.20 feet to a point;
N 05°37'38" E, a distance of 70.38 feet to a point;
N 01°44'25" W, a distance of 197.79 feet to a point;
N 48°53'49" W, a distance of 26.16 feet to a point;
N 08°47'39" E, a distance of 47.25 feet to a point;
N 11°02'07" W, a distance of 21.45 feet to a point;
N 68°12'08" W, a distance of 28.38 feet to a point;
N 36°39'14" W, a distance of 73.74 feet to a point;
N 38°41'48" W, a distance of 49.91 feet to a point;
N 60°19'59" W, a distance of 86.60 feet to a point;
S 84°49'15" W, a distance of 38.48 feet to a point;
N 83°50'28" W, a distance of 210.53 feet to a point;
S 66°41'40" W, a distance of 202.53 feet to a point;
N 36°52'48" W, a distance of 15.67 feet to a point, an angle of said Lot 1;

THENCE: Departing the east line of said Lot 1 and over and across said Lot 1 N 72°00'00" W referenced to the bearings of said Dos Rios WWTP subdivision, a distance of 3028.94 feet to a point for an angle;

THENCE: Continuing over and across said Lot 1 N 17°22'30" E, referenced to the bearings of said Dos Rios WWTP subdivision, a distance of 1778.55 feet to a point on the north line of said Lot 1, the south line of the aforementioned Rabel Road;

Dos Rios Solar Project
Saws North Tract
Job 7778-10
217.766 Acres

- THENCE: S 72°26'22" E, along and with the south line of said Rabel Road, the north line of said Lot 1, by plat said line runs 2008.77 feet, a distance of 640.00 feet to a point of curvature at the east end of said line;
- THENCE: Along a tangent curve to the right, said curve having a radius of 25.00 feet, a central angle of 42°50'00", a chord bearing and distance of S 51°01'22" E, 18.26 feet, for an arc length of 18.69 feet to a point of reversing curvature;
- THENCE: Along a reverse curve to the left, said curve having a radius of 50.00 feet, a central angle of 109°15'19", a chord bearing and distance of S 84°14'02" E, 81.54 feet, for an arc length of 95.34 feet to a point;
- THENCE: S 72°24'03" E, a distance of 4.34 feet to a point;
- THENCE: N 17°35'53" E, a distance of 23.12 feet to the POINT OF BEGINNING, and containing 217.767 acres in the City of San Antonio, Bexar County, Texas. Said tract being described in accordance with the calls and descriptions of the Dos Rios WWTP subdivision;

This document was prepared under 22 TAC 663.21, and does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

PREPARED BY: PAPE-DAWSON ENGINEERS INC.
DATE: May 4, 2011, May 6, 2011.
JOB No.: 7778-10
FILE:n:\cicil\7778-10\word\DosRios-North.doc



CITY COUNCIL ITEMS #22

**Sun Edison Tax Abatement and
Non-Annexation Agreement**

ECONOMIC DEVELOPMENT DEPARTMENT

September 1, 2011

1

Item for Consideration

- An Ordinance authorizing execution of a 6-year, 100% Tax Abatement Agreement with Sun Edison, creating an Industrial District and approving a 15-year Non-Annexation Agreement with Sun Edison for a site in the City's ETJ.

2

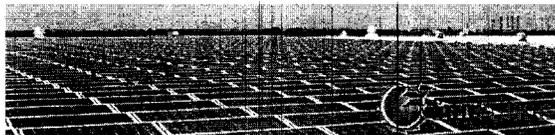
Sun Edison – Project Benefits

- Adds 30 megawatts of solar energy toward the CPS Energy goal of achieving 20% renewable generation capacity by 2020.
- Supports growth in the SA2020 “New Energy Economy” targeted industry.
- Attracts a major player in the renewable energy industry to San Antonio.
- Sun Edison providing \$300,000 toward community research and development and \$300,000 toward community education and outreach in partnership with local school districts.

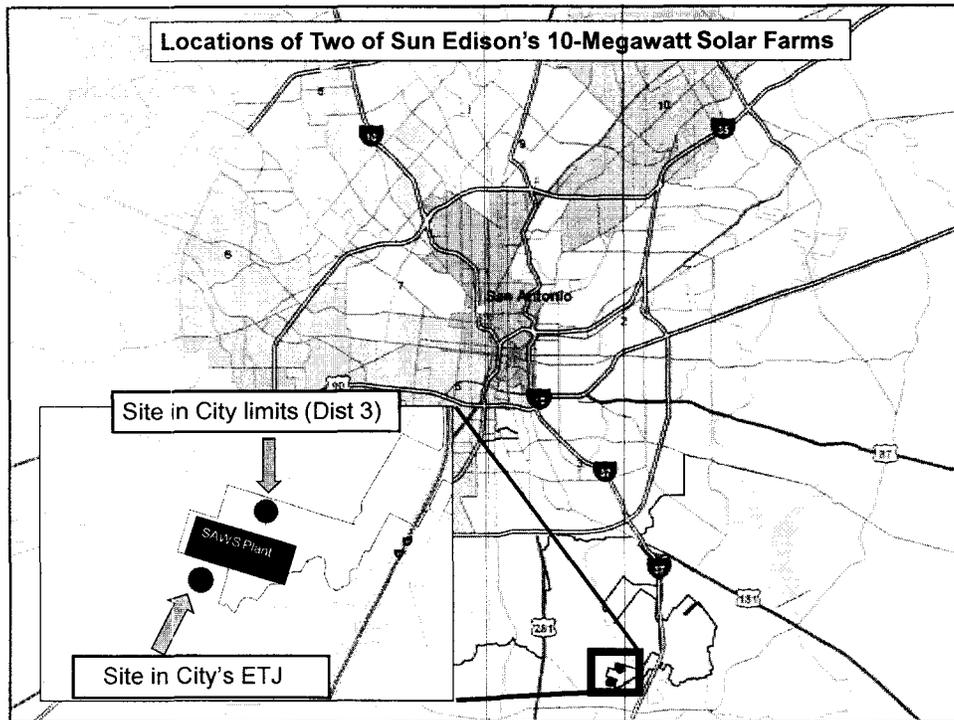
3

Sun Edison - Project Details

- Sun Edison will invest \$150 million to construct three 10-megawatt solar farms.
 - One farm will be located in District 3, one in the City’s ETJ and one in Somerset.
 - Two farms are adjacent to the SAWS Dos Rios Water Recycling Center in the southeast sector along I-37.
- Sun Edison will contribute \$300,000 to partner with UTSA on Research and Development in the renewable energy sector.



4



Sun Edison - Background

- September 2010, CPS Energy awarded Sun Edison a Power Purchase Agreement (PPA) through an RFP process to purchase 30 megawatts of solar energy over 25 years.
- The PPA requires Sun Edison to:
 - Establish a regional office in San Antonio;
 - Collaborate to develop a specific research and development (R&D) program related to renewable energy with a local higher education institution; and
 - Establish a community outreach/education program.

Sun Edison – Proposed Incentives

- Staff recommends the following incentives for the Sun Edison “New Energy Economy” project, subject to Council Approval:
 - A 6-year, 100% Tax Abatement valued at approximately \$653,906 for the one site in the city.
 - Establishment of an Industrial District at the site in the ETJ and a related 15-year Non-Annexation Agreement.



7

Tax Abatement

- To receive the 6-year, 100% tax abatement Sun Edison must:
 - Invest about \$42 million at the city site and construct one 10 megawatt solar farm.
 - Enter into an agreement with UTSA by December 31, 2011, to contribute \$300,000 toward a research and development collaboration on renewable energy.
 - Establish a regional office in San Antonio.

8

Industrial District and Non-Annexation Agreement

- This item also creates the Sun Edison Industrial District at the site in the ETJ.
 - Allows the City to enter into a Non-Annexation Agreement with Sun Edison for 15 years.
 - Authorized per state statute for purposes of creating economic development in the District.
- The city is currently not planning to annex the proposed site adjacent to the SAWS Dos Rios Recycling Center.

9

ISSUE

- The Sun Edison city site is located in a Tier III area allowing for a 6-year, 50% tax abatement.
 - Staff recommends a 6-year, 100% tax abatement based on Sun Edison's commitment to invest \$300,000 over three years in a research collaboration with UTSA
- The City can annex the ETJ site at the end of 15 years or agree to extend the non-annexation.
 - Fire protection services will be provided by Bexar County.

10

RECOMMENDATION

- Staff recommends approval of an Ordinance authorizing a Tax Abatement Agreement with Sun Edison, establishing the Sun Edison Industrial District and authorizing a 15-year Non-Annexation Agreement with Sun Edison.



11

Backup Slides

12



SUN EDISON--BACKGROUND

- Founded in 2003 and Headquartered in Beltsville, Maryland, Sun Edison is a global provider of solar energy services.
- Sun Edison is backed by investors such as Goldman Sacks, Mission Point Capital Partners and Black River Asset Management.
- Sun Edison services include financing installation, operations, monitoring and maintenance for its commercial, government and utility customers in Europe and North America.

SUN EDISON--BACKGROUND

- On November 23, 2009 Sun Edison was acquired by MEMC, a manufacturer of silicon wafers and solar energy service provider, with R&D and manufacturing facilities in the U.S., Europe and Asia.
- Sun Edison and Sky Power, a solar power developer, launched two solar parks in Canada in 2010.



15

Industrial District Policy

- Texas Local Government Code authorizes the City to designate a portion of its ETJ as an ID and enter into a non-annexation agreement to promote economic development.
- Since 1986, City Council has approved five IDs:
 - Lancer
 - Texas Research Park (TRTF)
 - Citicorp
 - Baker Hughes
 - QVC (expired Dec 2005 when property was annexed)

16

FISCAL IMPACT

- The City will collect a one-time Industrial District and Abatement application fee of \$2,500.00 for deposit in the General Fund
- Sun Edison operations in the City's ETJ will not result in any increase in funding for City services because Fire Services are not being provided.

